

AMENDED IN ASSEMBLY APRIL 22, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 281**

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**Introduced by Assembly Member Gallagher**

February 11, 2015

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An act to amend Sections 7500.1, 7506.9, and 7507.5 of, and to add Sections 7509, 7509.1, 7509.2, and 7509.3 to, the Business and Professions Code, relating to collateral recovery.

LEGISLATIVE COUNSEL’S DIGEST

AB 281, as amended, Gallagher. Collateral recovery.

Existing law, the Collateral Recovery Act, provides for the licensure and regulation of repossession agencies by the Bureau of Security and Investigative Services under the supervision and control of the Director of Consumer Affairs. The chief of the bureau serves under the direction and supervision of the director. Existing law makes a violation of the act a crime. Existing law also provides for the denial of a license for specified violations of the act, and authorizes the director to assess administrative fines and penalties.

This bill would establish a Collateral Recovery Disciplinary Review Committee, to consist of 5 members to be appointed by, and to serve at the pleasure of, the Governor, for purposes of reviewing the request of a licensee to contest the assessment of an administrative fine or to appeal a denial of a license, except as specified. The bill would set forth the duties of the Collateral Recovery Disciplinary Review Committee in that regard, and would authorize the members of the committee to be paid per diem and reimbursed for actual travel expenses.

Existing law prohibits a person from performing the duties of a registrant for a licensed repossession agency unless the person has in

his or her possession a valid reposessor registration card or evidence of a valid temporary registration or registration renewal. Existing law authorizes a person to perform the duties of a registrant for a licensee pending receipt of a registration card if the person has been approved by the bureau and carries on his or her person a hardcopy printout of the bureau's approval from the bureau's Internet Web site.

~~This bill would authorize a person performing the duties of a registrant to alternatively display a~~ *exempt from that prohibition a person who has in his or her possession a* hardcopy printout or electronic copy of the bureau's approval from the bureau's Internet Web site ~~or an electronic screenshot display of this information directly from the bureau's Internet Web site. The bill would also authorize a person performing the duties of a registrant for a licensee pending receipt of a registration card if the person has been approved by the bureau and carries on his or her person an~~ *specify for the above-described purposes that an electronic copy of the bureau's approval may include an* electronic screenshot display ~~of this information directly from the bureau's Internet Web site; that information.~~

The Collateral Recovery Act authorizes licensed reposseors to perform repair work upon vehicles and charge owners if expressly authorized to do so.

This bill would prohibit licensed reposseors from performing, or charging for, repair work.

This bill would also make technical changes.

Because a violation of the bill's provisions under the Collateral Recovery Act would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 7500.1 of the Business and Professions
- 2 Code is amended to read:

1 7500.1. The following terms as used in this chapter have the  
2 meaning expressed in this section:

3 (a) "Advertisement" means any written or printed  
4 communication, including a directory listing, except a free  
5 telephone directory listing that does not allow space for a license  
6 number.

7 (b) "Assignment" means any written authorization by the legal  
8 owner, lienholder, lessor or lessee, or the agent of any of them, to  
9 skip trace, locate, or repossess, including, but not limited to,  
10 collateral registered under the Vehicle Code that is subject to a  
11 security agreement that contains a repossession clause.  
12 "Assignment" also means any written authorization by an employer  
13 to recover any collateral entrusted to an employee or former  
14 employee in possession of the collateral. A photocopy of an  
15 assignment, facsimile copy of an assignment, or electronic format  
16 of an assignment shall have the same force and effect as an original  
17 written assignment.

18 (c) "Bureau" means the Bureau of Security and Investigative  
19 Services.

20 (d) "Chief" means the Chief of the Bureau of Security and  
21 Investigative Services.

22 (e) "Collateral" means any specific vehicle, trailer, boat,  
23 recreational vehicle, motor home, appliance, or other property that  
24 is subject to a security agreement.

25 (f) "Combustibles" means any substance or article that is capable  
26 of undergoing combustion or catching fire, or that is flammable,  
27 if retained.

28 (g) "Dangerous drugs" means any controlled substances as  
29 defined in Chapter 2 (commencing with Section 11053) of Division  
30 10 of the Health and Safety Code.

31 (h) "Deadly weapon" means and includes any instrument or  
32 weapon of the kind commonly known as a blackjack, slungshot,  
33 billy, sandclub, sandbag, metal knuckles, dirk, dagger, pistol, or  
34 revolver, or any other firearm, any knife having a blade longer  
35 than five inches, any razor with an unguarded blade, and any metal  
36 pipe or bar used or intended to be used as a club.

37 (i) "Debtor" means any person obligated under a security  
38 agreement.

39 (j) "Department" means the Department of Consumer Affairs.

40 (k) "Director" means the Director of Consumer Affairs.

- 1 (l) “Electronic format” includes, but is not limited to, a text  
2 message, ~~e-mail~~, *email*, or Internet posting.
- 3 (m) “Health hazard” means any personal effects that if retained  
4 would produce an unsanitary or unhealthful condition, or which  
5 might damage other personal effects.
- 6 (n) “Legal owner” means a person holding a security interest  
7 in any collateral that is subject to a security agreement, a lien  
8 against any collateral, or an interest in any collateral that is subject  
9 to a lease agreement.
- 10 (o) “Licensee” means an individual, partnership, limited liability  
11 company, or corporation licensed under this chapter as a  
12 repossession agency.
- 13 (p) “Multiple licensee” means a repossession agency holding  
14 more than one repossession license under this chapter, with one  
15 fictitious trade style and ownership, conducting repossession  
16 business from additional licensed locations other than the location  
17 shown on the original license.
- 18 (q) “Person” includes any individual, partnership, limited  
19 liability company, or corporation.
- 20 (r) “Personal effects” means any property that is not the property  
21 of the legal owner.
- 22 (s) “Private building” means and includes any dwelling,  
23 outbuilding, or other enclosed structure.
- 24 (t) “Qualified certificate holder” or “qualified manager” is a  
25 person who possesses a valid qualification certificate in accordance  
26 with the provisions of Article 5 (commencing with Section 7504)  
27 and is in active control or management of, and who is a director  
28 of, the licensee’s place of business.
- 29 (u) “Registrant” means a person registered under this chapter.
- 30 (v) “Secured area” means and includes any fenced and locked  
31 area.
- 32 (w) “Security agreement” means an obligation, pledge,  
33 mortgage, chattel mortgage, lease agreement, deposit, or lien, given  
34 by a debtor as security for payment or performance of his or her  
35 debt, by furnishing the creditor with a recourse to be used in case  
36 of failure in the principal obligation. “Security agreement” also  
37 includes a bailment where an employer-employee relationship  
38 exists or existed between the bailor and the bailee.
- 39 (x) “Services” means any duty or labor to be rendered by one  
40 person for another.

1 (y) “Violent act” means any act that results in bodily harm or  
2 injury to any party involved.

3 (z) The amendments made to this section during the 2005–06  
4 Regular Session shall not be deemed to exempt any person from  
5 the provisions of this chapter.

6 SEC. 2. Section 7506.9 of the Business and Professions Code  
7 is amended to read:

8 7506.9. (a) Upon the issuance of the initial registration,  
9 reregistration, or renewal, the chief shall issue to the registrant a  
10 suitable pocket identification card. At the request of the registrant,  
11 the identification card may include a photograph of the registrant.  
12 The photograph shall be of a size prescribed by the bureau. The  
13 card shall contain the name of the licensee with whom the registrant  
14 is registered. The applicant may request to be issued an enhanced  
15 pocket card that shall be composed of durable material and may  
16 incorporate technologically advanced security features. The bureau  
17 may charge a fee sufficient to reimburse the department for costs  
18 for furnishing the enhanced pocket card. The fee charged may not  
19 exceed the actual cost for system development, maintenance, and  
20 processing necessary to provide the service, and may not exceed  
21 six dollars (\$6). If the applicant does not request an enhanced card,  
22 the department shall issue a standard card at no cost to the  
23 applicant.

24 (b) Until the registration certificate is issued or denied, a person  
25 may be assigned to work with a temporary registration on a secure  
26 form prescribed by the chief, and issued by the qualified certificate  
27 holder, for a period not to exceed 120 days from the date the  
28 employment or contract commenced, provided the person signs a  
29 declaration under penalty of perjury that he or she has not been  
30 convicted of a felony or committed any other act constituting  
31 grounds for denial of a registration pursuant to Section 7506.8  
32 (unless he or she declares that the conviction of a felony or the  
33 commission of a specified act or acts occurred prior to the issuance  
34 of a registration by the chief and the conduct was not the cause of  
35 any subsequent suspension or termination of a registration), and  
36 that he or she has read and understands the provisions of this  
37 chapter.

38 (c) The chief shall issue an additional temporary registration  
39 for not less than 60 days nor more than 120 days, if the chief

1 determines that the investigation of the applicant will take longer  
2 to complete than the initial temporary registration time period.

3 (d) No person shall perform the duties of a registrant for a  
4 licensee unless the person has in his or her possession a valid  
5 reposessor registration ~~card~~ *card, a hardcopy printout or*  
6 *electronic copy of the bureau's approval from the bureau's Internet*  
7 *Web site, which may include an electronic screenshot of that*  
8 *information, or evidence of a valid temporary registration or*  
9 *registration renewal as described in subdivision (b) or (e) of this*  
10 *section or subdivision (e) (f) of Section 7506.10. Every person,*  
11 *while engaged in any activity for which licensure is required, shall*  
12 *display his or her valid pocket card, a hardcopy printout or*  
13 *electronic copy of the bureau's approval from the bureau's Internet*  
14 *Web site, or an electronic screenshot display of this information*  
15 *directly from the bureau's Internet Web site as provided by*  
16 *regulation.*

17 (e) A person may work as a registrant pending receipt of the  
18 registration card if he or she has been approved by the bureau and  
19 carries on his or her person a hardcopy printout or electronic copy  
20 of the bureau's approval from the bureau's Internet Web site, ~~or~~  
21 ~~an electronic display of this information directly from the bureau's~~  
22 ~~Internet Web Site, which may include an electronic screenshot of~~  
23 ~~that information, and a valid picture identification.~~

24 SEC. 3. Section 7507.5 of the Business and Professions Code  
25 is amended to read:

26 7507.5. No charge shall be made for services incurred in  
27 connection with the recovery, transportation, and storage of  
28 collateral except under terms agreed to by the legal owner at the  
29 time of the repossession authorization or specifically agreed upon  
30 at a subsequent time. Repair work shall not be performed and shall  
31 not be charged to the legal owner.

32 SEC. 4. Section 7509 is added to the Business and Professions  
33 Code, to read:

34 7509. (a) A person licensed with the bureau under this chapter  
35 may request a review by the Collateral Recovery Disciplinary  
36 Review Committee, as established in Section 7509.1, to contest  
37 the assessment of an administrative fine or to appeal a denial of a  
38 license, unless the denial is ordered by the director in accordance  
39 with Chapter 5 (commencing with Section 11500) of Part 1 of  
40 Division 3 of Title 2 of the Government Code.

1 (b) A request for a review shall be by written notice to the  
2 disciplinary review committee within 30 days of the issuance of  
3 the citation and assessment or denial.

4 (c) Following a review by the disciplinary review committee,  
5 the appellant shall be notified within 30 days, in writing, by regular  
6 mail, of the committee's decision. At the discretion of the  
7 disciplinary review committee, an appellant may be notified  
8 immediately of the committee's decision once it is made.

9 (d) If the appellant disagrees with the decision made by the  
10 disciplinary review committee, he or she may request a hearing in  
11 accordance with Chapter 5 (commencing with Section 11500) of  
12 Part 1 of Division 3 of Title 2 of the Government Code. A request  
13 for a hearing following a decision by the disciplinary review  
14 committee shall be by written notice to the bureau within 30 days  
15 following notice of the committee's decision.

16 (e) If the appellant does not request a hearing within 30 days,  
17 the disciplinary review committee's decision shall become final.

18 (f) Notwithstanding subdivisions (a) to (e), inclusive, ~~where~~  
19 *when* a hearing is held under this chapter to determine whether an  
20 application for licensure should be granted, the proceedings shall  
21 be conducted in accordance with Chapter 5 (commencing with  
22 Section 11500) of Part 1 of Division 3 of Title 2 of the Government  
23 Code, and the director shall have all of the powers granted therein.

24 SEC. 5. Section 7509.1 is added to the Business and Professions  
25 Code, to read:

26 7509.1. (a) The Governor shall appoint a Collateral Recovery  
27 Disciplinary Review Committee, and may remove any member of  
28 the committee for misconduct, incompetency, or neglect of duty.  
29 The committee shall consist of five members. Of the five members,  
30 three members shall be actively engaged in ~~the business of owning~~  
31 ~~licensed repossession agencies~~ *business as a licensed repossession*  
32 *agency* and two members shall be public members. None of the  
33 public members shall be licensees, certificate holders, or  
34 registrants, or engaged in any business or profession in which any  
35 part of the fees, compensation, or revenue thereof is derived from  
36 any licensee.

37 (b) The disciplinary review committee shall meet as frequently  
38 as may be required. The members shall be paid per diem pursuant  
39 to Section 103 and shall be reimbursed for actual travel expenses.  
40 The members shall serve for a term of four years.

SEC. 6. Section 7509.2 is added to the Business and Professions Code, to read:

7509.2. The Collateral Recovery Disciplinary Review Committee shall perform the following functions:

(a) Affirm, rescind, or modify all appealed decisions concerning administrative fines assessed by the director or bureau against repossession agencies or their employees.

(b) Affirm, rescind, or modify all appealed decisions concerning denial of licenses issued by the director or bureau, except denials or suspensions ordered by the director in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 7. Section 7509.3 is added to the Business and Professions Code, to read:

7509.3. The bureau shall provide the Collateral Recovery Disciplinary Review Committee all evidence used by the bureau in reaching its decision prior to any review or appeal of that decision by the committee.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.